

**CALIFORNIA ENERGY COMMISSION**

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www.energy.ca.gov



March 30, 2005

Les Guliasi  
Pacific Gas and Electric Company  
P. O. Box 770000  
San Francisco, CA 94177

<b>DOCKET</b> <b>04-IEP-1D</b>	
<b>DATE</b>	<b>MAR 30 2005</b>
<b>RECD.</b>	<b>MAR 30 2005</b>

Dear Mr. Guliasi:

Re: Application for Designation of Confidentiality Electricity Supply Forecast Data,  
Docket No. 04-IEP-1D

On March 2, 2005, Pacific Gas and Electric Company (PG&E) filed Electricity Supply Forecast Forms S-1, S-2, S-3, S-4, and S-5 for use in the Energy Commission's 2005 Energy Report proceeding. As part of that filing, PG&E is seeking a designation of confidentiality for the above-referenced forms.

PG&E's application for confidentiality (application) can be summarized as follows:

- Form S-1: Dependable Capacity Resource Accounting Table. PG&E requests that all of Form S-1 be kept confidential.
- Form S-2: Energy Balance Accounting Table. PG&E requests that all of Form S-2 be kept confidential.

PG&E believes that this confidentiality is required (on Forms S-1 and S-2) to ensure that supply and resource data do not reveal PG&E's "net open" and ongoing and future procurement and competitive positions and strategies, thereby compromising PG&E's ability to secure the most favorable deals for customers. Because the state's supply of electric resources is largely static through 2008, competitive and market sensitive information should remain confidential, as knowledge about PG&E's specific procurement needs and patterns could undermine its competitive position and current business plans.

- Form S-3: Generic Renewable Capacity and Energy Locations. PG&E also requests that Supply Form S-3 (Capacity) be confidential, except for the last line (TOTAL MW) which would be confidential for the first three years (2006-2008). The reasons for this confidentiality are the same as stated for Supply Forms S-1 and S-2, above.
- Form S-4: Projected QF Energy and Cost. PG&E requests Form S-4 be confidential because this form contains specific, individual proprietary and third party contract information which may not be disclosed.

- Form S-5: Bilateral Contracts. PG&E requests Form S-5 be confidential because this form contains specific, individual proprietary and third party contract information which may not be disclosed.

The California Public Records Act allows for non-disclosure of trade secrets (Gov. Code, § 6254(k), Evid. Code, § 1060). The California courts have traditionally used the following definition of trade secret:

“A trade secret may consist of any formula, pattern, device or compilation of information which is used in one’s business, and which gives him an opportunity to obtain an advantage over competitors who do not know or use it...” (*Uribe v. Howie* (1971) 19 Cal.App.3d 194, 207-208, 96 Cal. Rptr. 493, 500-501, from the Restatement of Torts, vol. 4, sec. 757, comment b, p. 5.)

PG&E’s application of March 2, 2005, makes a reasonable argument under the Energy Commission’s regulations for the Executive Director to classify some of the information contained in your application as confidential, since it could provide your competitors with a competitive advantage if made public. (Gov. Code, § 6254 (k); Cal. Code Regs., tit. 20, § 2505.) Accordingly, confidentiality will be granted as follows:

- Form S-1: Dependable Capacity Resource Accounting Table, described above. This table will be granted confidentiality for 3 years until the end of 2008, not for the longer period you requested because this planning data will become outdated. Certain annual aggregated capacity and energy data that is not designated as confidential was provided in Tables S-6 and S-7, and this data may be made available to the public and third parties without restriction.
- Form S-2: Energy Balance Accounting Table, described above. This table will be granted confidentiality for 3 years until the end of 2008, not for the longer period you requested because this planning data will become outdated. Certain annual aggregated capacity and energy data that is not designated as confidential was provided in Tables S-6 and S-7, and this data may be made available to the public and third parties without restriction.
- Form S-3: Generic Renewable Capacity and Energy locations, described above. This table will be granted confidentiality for 3 years until the end of 2008, not for the longer period you requested because this planning data will become outdated.
- Form S-4: Projected QF Contracts, described above. This table will be granted confidentiality until the end of 2016.
- Form S-5: Bilateral Contracts, described above. Confidentiality will be granted until the end of 2016 or the end of the contract, whichever is later, even for those

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contracts which contain clauses specifying that the parties must maintain confidentiality indefinitely

The procedures and criteria for appealing this decision are set forth in the California Code of Regulations, title 20, section 2505. Be advised that an appeal must be filed within 14 days from the date of my decision. If you have any further questions regarding this decision, please contact Thomas Glaviano, Staff Counsel, at (916) 651-8893.

Sincerely,

A handwritten signature in black ink, appearing to read 'S. W. Matthews', with a long horizontal flourish extending to the right.

SCOTT W. MATTHEWS  
Acting Executive Director

cc: Docket Unit